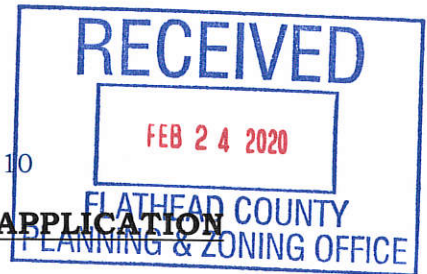


Flathead County Planning & Zoning

1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



MAJOR SUBDIVISION PRELIMINARY PLAT APPLICATION

*Submit this application, all required information, and appropriate fee (see current fee schedule)
to the Planning & Zoning office at the address listed above.*

FEE ATTACHED \$ 1515.00+ 75.00

SUBDIVISION NAME: Subdivision No. 294

OWNER(S) OF RECORD:

Name: Jeremy and Jennette Peterson Phone: (406) 890-0331

Mailing Address: P.O. Box 8271

City, State, Zip: Kalispell, MT 59901

Email: jpeterson@martelconstruction.com

APPLICANT (IF DIFFERENT THAN ABOVE):

Name: Same Phone: _____

Mailing Address: _____

City, State, Zip Code: _____

Email: _____

TECHNICAL/PROFESSIONAL PARTICIPANTS:

Name: Sands Surveying, Inc., Attn: Eric Mulcahy Phone: (406) 755-6481

Mailing Address: 2 Village Loop

City, State, Zip: Kalispell, MT 59901

Email: eric@sandssurveying.com

Name: Jere Johnson Phone: (406) 270-3635

Mailing Address: 4572 Whitefish Stage Road

City, State, Zip: Whitefish, MT 59937

Email: jdj@bresnan.net

LEGAL DESCRIPTION OF PROPERTY:

Street Address 195 Wintercrest Drive, Kalispell

City/State & Zip Kalispell

Assessor's Tract No.(s) 2FB Lot No.(s)

Section 07 Township 29N Range 21W

GENERAL DESCRIPTION/TYPE OF SUBDIVISION: _____

The Owner/Applicant proposes a two lot residential subdivision.

Number of Lots or Rental Spaces 2 Total Acreage in Subdivision 4.996 ac
Total Acreage in Lots 4.652 acres Minimum Size of Lots or Spaces 2.001 ac
Total Acreage in Streets or Roads 0.344 Maximum Size of Lots or Spaces 2.995 ac
Total Acreage in Parks, Open Spaces and/or Common Areas n/a.

PROPOSED USE(S) AND NUMBER OF ASSOCIATED LOTS/SPACES:

Single Family X (2 Lots) _____ Townhouse _____ Mobile Home Park _____
Duplex _____ Apartment _____ Recreational Vehicle Park _____
Commercial _____ Industrial _____ Planned Unit Development _____
Condominium _____ Multi-Family _____ Other _____

APPLICABLE ZONING DESIGNATION & DISTRICT: The property is zoned R-1.

IS SUBJECT PROPERTY LOCATED WITHIN 3-MILE BUFFER OF KALISPELL, WHITEFISH, OR COLUMBIA FALLS? Yes.

ESTIMATE OF MARKET VALUE BEFORE IMPROVEMENTS: \$23,000.00 per acre

IMPROVEMENTS TO BE PROVIDED:

Roads: X Gravel _____ Paved _____ Curb _____ Gutter _____ Sidewalks _____ Alleys _____ Other _____
*** Water System:** _____ Individual X Shared _____ Multiple User _____ Public _____
*** Sewer System:** X Individual _____ Shared _____ Multiple User _____ Public _____
Other Utilities: _____ Cable TV X Telephone X Electric _____ Gas _____ Other _____
Solid Waste: _____ Home Pick Up _____ Central Storage X Contract Hauler _____ Owner Haul _____
Mail Delivery: X Central _____ Individual _____ School District: Kalispell
Fire Protection: _____ Hydrants _____ Tanker Recharge _____ Fire District: West Valley
Drainage System: On-site

* **Individual** (one user)

Shared (two user)

Multiple user (3-9 connections or less the 25 people served at least 60 days of the year)

Public (more than 10 connections or 25 or more people served at least 60 days of the year)

PROPOSED EROSION/SEDIMENTATION CONTROL: As needed

VARIANCES: ARE ANY VARIANCES REQUESTED? Yes (yes/no)
(If yes, please complete the information on page 3)

SECTION/REGULATION OF REGULATIONS CREATING HARDSHIP: 4.7.17.f.i. (off-site road improvements) and 4.7.15 (Road Users Agreement)

EXPLAIN THE HARDSHIP THAT WOULD BE CREATED WITH STRICT COMPLIANCE OF REGULATIONS: The 'standard improvement formula' referenced in the Flathead County Subdivision regulations works out as follows:

$$P/(P+E) \times (100) = I$$

P is projected trips

E is existing trips

I is the percent of road to be improved

- As there are no traffic counts available for Wintercrest Drive we will assume ten vehicle trips per lot that use Wintercrest Drive. Currently there are 24 parcels using Wintercrest Drive and with the new lot there will be 25 parcels. We will assume ten vehicle trips per day per parcel.

Paving required for Wintercrest Drive

Wintercrest Drive is 2985- feet in length to the SW corner of the subdivision.

$$10/(10+240) \times 100 = 4\% \text{ of the private road.}$$

$$4\% \times 2985 \text{ feet} = 119 \text{ lineal feet of paving would be required on Wintercrest Drive}$$

This "standard improvement formula' is essentially an impact fee and the State Law (§7-6-1602 (2)(j) says the following:" Establish the amount of the impact fee that will be imposed for each unit of increased service demand." Impact fees and exactions are required to be fair and proportionate. In this case of the 24 parcels created in this area none have triggered any paving. The result is that this one lot will be required to pave a small area of road nowhere close to where the actual lots is being created.

An engineer's estimate to excavate four inched of road base, add six inches of crushed to the road, and pave a three inch lift for the 119-feet comes to \$7854 or about \$3.00/square foot.

The cost of this required condition is not proportionate compared to impact. As no other lots in the neighborhood have ever had to pave the rule does not appear to be fair.

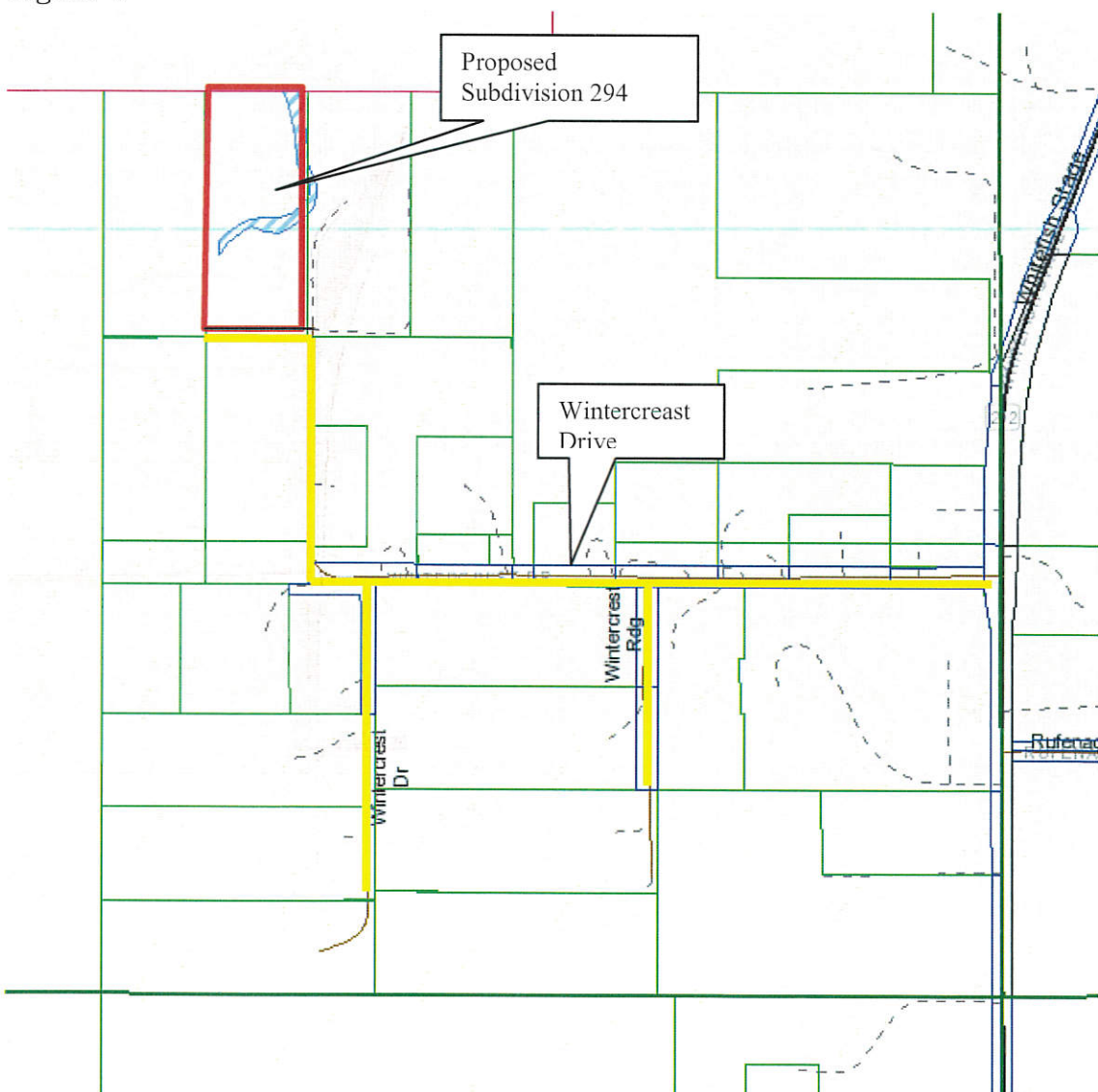
Road Maintenance Agreement for Wintercrest Drive and the unnamed portion of the drive that extends north to the proposed subdivision.

According to the Flathead County GIS site there are 24 parcels that derive access from Wintercrest Drive. These 24 parcels have been developed through family transfers and occasional sales over the last 40 years (Figure 1). Family transfers and occasional sales utilize the subdivision exemption process and as these parcels were created over a series of decades

there was no requirement or uniform vision to create a road users agreement for Wintercrest Drive. In 1990 five of the parcel owners got together and recorded a Road Maintenance Agreement for Wintercrest Drive. This agreement did not include the Peterson property but would allow for other property to join if approved by the majority of the membership approves. According to Mr Peterson this 1990 Maintenance Agreement has died out and is no longer performing the duties of the agreement.

Regulation 4-7-15 would require Mr. Peterson, as the first subdivision in the neighborhood, to get all 24 lot owners to agree to a Road Maintenance Agreement or assume all of the maintenance himself. There is no incentive for any of the other property owners to sign on to such an agreement so the task would be nearly impossible to meet. Assuming all of the maintenance for Wintercrest Drive with this two lot subdivision is also an unfair requirement and not proportional to the developments impact.

Figure 1



Source: Flathead County GIS

FEB 24 2020

PROPOSED ALTERNATIVE(S) TO STRICT COMPLIANCES WITH ABOVE REGULATIONS:___

An alternative to paving would be dust abatement. The applicant proposes to commit to two years of dust abatement for the entire 2985 feet of Wintercrest Drive. It would appear that the whole road could be addressed rather than just 119 feet. Also the two years of dust abatement will help into the future.

Maintenance of Wintercrest Drive has occurred via handshakes and voluntary contributions by some of the neighbors including the applicant Mr. Peterson. Although not ideal it has worked for the neighborhood.

PLEASE ANSWER THE FOLLOWING QUESTIONS IN THE SPACES PROVIDED BELOW:

1. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

The requirement for off-site improvements was conceived as a way to reduce air born dust generated by the County's gravel roads. While this is a good policy in general, for small subdivisions such as this where the applicants are only creating one additional lot, the formula places a greater proportion of impact and cost on the small subdivision than it would if the applicant were creating ten or twenty lots. So the reality is that this is not an evenly proportional regulation.

If the County accepts the alternative of cost share dust abatement, the applicants can address the entire road for at least two years. The County will meet its air quality policy and the subdivider/applicant will create a more affordable lot.

The variance for the maintenance agreement would not jeopardize public health or safety. The one additional lot proposed by the applicant will not overburden the road. Should the variance be denied and the subdivision fails because the applicant was not able to get the neighbors to sign a maintenance agreement, Wintercrest Drive would still lack an active road maintenance agreement and the road will continue to be maintained as it always has with several of the property owners pitching in and taking care of the road.

2. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed.

The hardship is not based on physical characteristics of the property. The hardship is based on the applicants creating a small subdivision (one additional lots) and that the property in question is a half mile from nearest paved road. It is also unfair that so many parcels have been created on this road over the last 40-years and nobody else has had to pave.

The hardship of securing a Road Maintenance Agreement is not based on any physical hardship, the hardship is human nature and getting someone to sign a binding document when there is no incentive for them to do so.

3. The variance will not cause a substantial increase in public costs, now or in the future. Wintercrest Drive is a private road and will never be part of the County's road system. Therefore maintenance and or paving of the road will not be a public taxpayer cost.

4. The variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations. The variance will not place this property in non-conformance with the growth policy as it is not a regulatory document. The property is zoned R-2 and the proposed subdivision complies with the minimum densities and land use.

5. The variance is consistent with the surrounding community character of the area. Most of the driveways and private roads within the Whitefish Stage neighborhood are gravel. The proposed subdivision will only create one additional lot. The subdivision and the impact are consistent with the surrounding character. Applying dust palliatives as an alternative will reduce dust to the benefit of the surrounding neighborhood.

As for a maintenance agreement, the neighborhood along Wintercrest has survived without an agreement and will continue to do so in the future. At some point in time a number of the neighbors could come together and form some kind of association but this would be a grass roots type of action and not one promoted by a single lot owner trying to subdivide his property so that his Aunt and Uncle can build a house next door.

FEB 24 2020


APPLICATION CONTENTS:

1. Completed Preliminary Plat application (*If submitting bound copies of the application materials, please also include one **unbound** copy for replication purposes*).
2. 14 folded copies of the preliminary plat. (*Either 18" X 24" or 24" X 36" per Appendix B- Flathead County Subdivision Regulations*).
3. One reproducible set of supplemental information (*See Appendix B -Flathead County Subdivision Regulations*).
4. One reduced copy of the preliminary plat not to exceed 11" x 17" in size.
5. Application fee.
6. A **Certified** Adjoining Property Owners List must be submitted with the application (*see attached form*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.

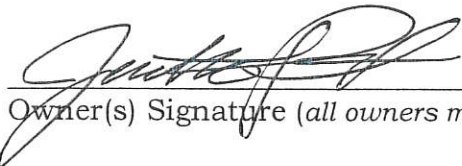
This application shall be submitted, along with all information required by the applicable Subdivision Regulations and the Montana Subdivision and Platting Act, and the appropriate fee to:

**Flathead County Planning & Zoning Office 1035 First Avenue West
Kalispell, Montana 59901 - Phone: (406) 751-8200 Fax: (406) 751-8210**

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be untrue, I understand that any approval based thereon may be rescinded and other appropriate action taken. The signing of this application signifies approval for the Flathead County Planning and Zoning staff to be present on the property for routine monitoring and inspection during the approval and development process.


Applicant Signature

1-15-2020
Date


Owner(s) Signature (all owners must sign)

1-15-20
Date

Owner(s) Signature (all owners must sign)

Date